

ALASKA PETROLEUM CONTRACTORS INC.
General Contractors

June 25, 1997

Faxed to: 907-269-4992

Mr. Randy Carr
Director of Labor & Safety
State of Alaska
Anchorage, Alaska

Re: Opinion Letter

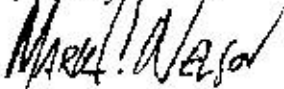
Dear Mr. Carr:

Thank you for assisting me over the telephone in making a determination as to overtime exemptions for our staff. The discussion surrounding "supervisors" as being exempt from overtime pay (premium pay) but yet have to be paid for all hours worked has been difficult to pull from the regulations.

Please respond in writing to give us a definition as to how it works and the cautions of classifying an employee as a supervisor. We can easily find the classifications for administrative, professionals and executives but do not see a clear path for the supervisors.

Thank you for your help.

Sincerely,



Mark C. Nelson
Operations Manager

Pouch 340014
Prudhoe Bay, Alaska 99734
Fax: 907-659-7706

ALASKA PETROLEUM CONTRACTORS INC.
General Contractors

June 19, 1997

Faxed to: (907) 269-4992

Mr. Randy Carr
Director of Labor & Safety
State of Alaska
Anchorage, Alaska

Re: Determination Letter

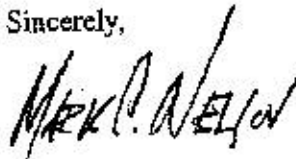
Dear Mr. Carr:

Attached you will find two documents, the first is a job description written for our material supervisors and the second is a form stating "Notice of Wage Payments." Please help me with the following determinations.

I want to confirm we are operating within the legal bounds of paying an employee on an exempt basis for the position of "Materials Supervisor" based upon the job description attached. In addition, when we do pay employees on an exempt basis we first have them sign the form titled "Notice of wage payments." I also want to make sure this form gives us the latitude to pay a legitimate exempt employee on a day rate given they could work anywhere from .5 hours to 24 hours in a given day. Should the form also state the requirement of hours work in the range?

These are just two issues I'm looking to clear up to ensure we are operating outside of any gray areas and paying our employees according to state and federal laws. I appreciate any help you can give me, my office telephone number is 659-7344. Thank you.

Sincerely,



Mark C. Nelson
Operations Manager



JOB #626

APC JOB DESCRIPTION - WAREHOUSE

DIVISION CLASS: CONSTRUCTION /MAINTENANCE

JOB TITLE: Materials Supervisor

SUMMARY: Performs lead role in receiving, inspection, stocking, staging, packaging, crating, inventory issue, shipping and delivery functions in Kuparuk warehousing system.

ESSENTIAL DUTIES AND RESPONSIBILITIES include the following. Other duties may be assigned.

A Materials Supervisor must first and foremost be able and willing to comply with the APC safety policy and the ARCO/BP Alaska Safety Handbook, and must be willing and able to lead and educate fellow employees in safe work ethics, practices, and behaviors. Must understand the prioritization of safety, quality, and production, and be willing to work accordingly. A successful candidate must be familiar with all job requirements and duties of the contract work force. Candidate must be familiar with the use of the ARCO AMPS system, and operating procedures, perform, train, instruct other personnel in performance of storage, issue, inventory control, shipping, receiving and transportation functions in a safe and environmentally sound manner. Prepare detailed written proposals, plans and project status reports. Develop or assist in developing procedures by working with all groups that require material support or are themselves providing support to Materials Department. Assess, forecast and respond to management-mandated business needs regarding manpower, equipment, tools, supplies and materials used to perform the work. Develop written budgetary criteria /justifications for related expenditures. Monitor business costs in all areas of responsibility and prepare periodic status reports regarding same. Instruct other personnel regarding handling, storage and transportation of hazardous materials, to include the disposal of used chemical and lube drums in a safe and environmentally conscious manner. Participate in physical inventory counts maintaining a minimum accuracy rate of 97.5%. Review inventory adjustments and recommend changes to improve accuracy and integrity. Operate all material handling equipment assigned to the work site, including but not limited to electric, diesel, gas and propane-powered lift trucks, pickups and flatbed trucks. Perform and instruct other Contractor personnel in performance of daily equipment inspection, maintenance and operation.

QUALIFICATION REQUIREMENTS:

To perform this job successfully, an individual must be able to perform each essential duty satisfactorily. The requirements listed below are representative of the knowledge, skill and/or ability required. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

EDUCATION and/or JOB RELATED EXPERIENCE:

Five or more years experience and/or training; general knowledge of standard warehousing principles and practices, familiarity with oilfield production equipment, its maintenance and standard parts. Strong administrative and computer skills required. Arctic experience desirable.

COMPREHENSION SKILLS:

Ability to read and comprehend ARCO/BP Alaska Safety handbook. Ability to work with material requests, receipts, bill of lading, shipping and receiving documentation, spreadsheets, reports, etc. Ability to solve practical problems and deal with a variety of shifting variables. Ability to interpret a variety of instructions furnished in written, oral, diagram or schedule form.

MATHEMATICAL SKILLS:

Ability to add, subtract, multiply and divide in all units of measure, using whole numbers, common fractions, and decimals. Ability to apply concepts such as fractions, percentages, ratios and proportions to practical situations.

CERTIFICATIONS, LICENSES, REGISTRATIONS:(PRE-REQUISITE FOR HIRE)

A valid drivers license and MAPTS 16hr Oilfield health and safety training are required for employment in this position. OSHA requires that all foreman and supervisory personnel hold current certification in Red Cross CPR and First Aid..

ERGONOMICS STATEMENT:

This position requires a candidate to be exposed to the Arctic work environment, incorporates cold related hazards and an employee may encounter other hazards in his/her day-to-day activities.

ALASKA PETROLEUM CONTRACTORS, INC.**NOTICE OF WAGE PAYMENTS**

Date: _____

Employee Name: _____
(Print)

In accordance with Alaska Statute, AS 23.05-160, (Notice of Wage Payments), this is to advise you that your established pay rate is \$_____. If you are an employee paid on a day rate, your minimum each week will be \$_____ provided there are no deductions for reasons permitted under applicable state or federal law. Your place of payment will be as elected in either Option 1 or 2 below. Check one:

____ **Option 1:** Automatic Payroll Deposit Authorization (payroll posts to your account each Friday). The Authorization form must be completed.

____ **Option 2:** Work Site (receive payroll check each Friday).

I have read and understand the above information. I further understand that a copy of this form will be provided to me once it has been signed by both parties.

Employee Signature_____
Date_____
Witness Signature_____
Date

Roles and Responsibilities Form

Position Title MATERIALS SUPERVISOR / APC

What is our role?

Manage the Warehouse inventory of all stocked material. i.e. Random and Cycle counts. Responsible for accurate receipting and distribution of all material. Responsible for maintaining a competent Contract Materials work force. Oversee the Safety Program for the Materials group.

What are our lead tasks and responsibilities as Team members?

- To maintain accurate Inventory counts.
- Customer service for all warehousing facilities in the KRU field.
- Manage the Materials Safety Program. i.e. Meeting topics & minutes, Monthly Audits, Band-Aid report, OSHA injury illness summary
- Manage & Maintain : MSDS / SARA / Right To Know Stations , Haz. labeling, proper storage, SPCC plan
- Shipping / Receiving
- Recycle programs
- Aircraft load & off load
- Manage payroll time - Work schedules & schedule revisions
- Re-warehousing - Special projects
- SOP updates
- Equipment inspection

What are our shared tasks and responsibilities as Team members?

- Maintain close ties with Material Spec., Material Coordinators, SWO & WO's
- Interface with all AAI & APC personnel
- Interface with Field personnel for all material needs

How does this position add value?

- Manages all normal day to day warehousing functions.
- Inventory accuracy of all material which keeps items at a manageable & reliable level.

To whom are we accountable?

APC Production Superintendent and AAI Materials Supervisor.

What other teams do we interact with or support?

All APC groups, Materials/Services team, Profit center teams, Wells team, Prudhoe Bay Goods & Services, MP & C Anchorage, HSET.

What other tasks could we do that would add value?

We are flexible and take on all tasks that are delegated to our group.

If you need more space, please use back of form.

A) MATERIALS SUPERVISOR

Duties and Responsibilities:

Required to be familiar with all job requirements and duties of the contract work force.

Using a sophisticated computerized material control system and operating procedures, perform, train, instruct other personnel in performance of storage, issue, inventory control, shipping, receiving and transportation functions in a safe and environmentally sound manner.

Prepare detailed written proposals, plans and project status reports.

Develop or assist in developing procedures by working with all groups that require material support or are themselves providing support to Materials Department.

Assess, forecast and respond to management-mandated business needs regarding manpower, equipment, tools, supplies and materials used to perform the work.

Develop written budgetary criteria / justifications for related expenditures.

Monitor business costs in all areas of responsibility and prepare periodic status reports regarding same.

Instruct other personnel regarding handling, storage and transportation of hazardous materials, to include a bulk chemical tank farm and the disposal of used chemical and lube drums in a safe and environmentally conscious manner.

Participate in physical inventory counts maintaining a minimum accuracy rate of 97.5%. Review inventory adjustments and recommend changes to improve accuracy and integrity.

Operate all material handling equipment assigned to the work site, including but not limited to electric, diesel, gas and propane-powered lift trucks, pickups and flatbed trucks.

Perform and instruct other Contractor personnel in performance of daily equipment inspection, maintenance and operation.

Minimum Qualification:

In-depth knowledge and skills in safe and efficient management of materials warehouse and distribution operations.

Ability to interact and effectively communicate with all levels of the client group, vendors and customers.

Thorough working knowledge of regulations, (OSHA, DOT, IATA, RCRA) related to handling, storage and transportation of hazardous materials, substances and wastes.

Must be able to operate computers and work with various software programs for reporting and communications purposes.

Minimum of three years experience with on-line automated material control systems.

Minimum of five years Materials/Warehousing Supervisory experience.

SAFETY ISSUES.....10% of total time spent working on:

- Conducting safety meetings
- Coordinating Safety meetings
- Maintaining and addressing "ACTION ITEM" List
- maintain band aid log
- maintain record for OSHA injury and illness reports
- involved in QTR safety Review
- Processing Safety audits and recording PSA items
- fire drills, Extinguisher inspection record
- review PPE requirements

HR ISSUES.....5% of total time spent:

- employee counseling
- employee instruction
- performance review
- prepare reprimands
- prepare or process Co-worker awards
- conflict resolution

ADMINISTRATION and OPERATIONAL ISSUES.....75% of total time spent:

- morning warehouse OPS. meetings as required
- Sunday "Materials" meetings
- Chemical meetings
- Inventory review, discrepancy research, accuracy performance, work assignment,
- review, establish, prepare, update Material written procedures
- review and/or process employee recommendation.
- review and/or process client recommendations
- review task efficiencies
- review procedures, refresh procedures, develop procedures

identify and/or assist in problem resolution, disseminate information, all for the
inventory computing system (AMPS)
prepare, track, sign off as complete FWRs for repair and maintenance
time card approval and submitting
review and approve schedule changes
schedule work tasks
oversee chemical off loading
Interface between contract personnel and client personnel

ENVIRONMENTAL ISSUES.....5% of total time

equipment and facility condition and readiness inspection (delegated)

Hose inspection,

Pad inspection

Vehicle inspection

Recycle awareness and development, research feasibility, establish procedures

prepare fluid manifests

prepare spill reports

HANDS ON WORK.....5% of total time spent

operating equipment or tools, i.e. lift truck, band pallets, install shelving...

freight or materials handling - issue of material, rewarehousing materials

truck unloading, freight inspection, handle baggage

conducted inventory count

research and process customer material requests

STATE OF ALASKA

DEPARTMENT OF LABOR WAGE AND HOUR ADMINISTRATION LABOR STANDARDS & SAFETY DIVISION

**TONY KNOWLES,
GOVERNOR**

3301 Eagle Street, Suite 301
P.O. Box 107021
Anchorage, Alaska 99510-7021
Phone: (907) 259-4900
Fax: (907) 269-4815

X4913

June 26, 1997

Dictated: 6/25/97

Mark C. Nelson
Operations Manager
Alaska Petroleum Contractors Inc.
P. O. Box 190747
6700 Arctic Spur Road
Anchorage, AK 99519-0747

WHOL #122

Dear Mr. Nelson:

I have reviewed the information you have submitted documenting the duties of your Materials Supervisors. I appears that they are employed in a supervisory capacity as defined in 8 AAC 15.910 (14), which states:

... those primary duties performed by an employee who is employed solely for the purpose of regularly assigning and directing the activities of other employees; and is responsible for results of the work performed and; who does not perform duties regularly performed by the employees supervised, except for brief periods of time not to exceed 20 percent of the hours worked in the workweek; for the purpose of AS 23.10.060, "supervisory capacity" does not apply to an employee required by the employer to perform those activities on an intermittent or substitute basis during the course of employment.

As such, they are exempt from overtime under AS 23.10.060, which states in pertinent part:

Payment for overtime. (a) An employer who employs employees engaged in commerce or other business, or in the production of goods or materials in the state may not employ an employee for a workweek longer than 40 hours or for more than eight hours a day. This section does not apply to the employment of a person acting in a supervisory capacity. [Emphasis added]

(b) If an employer finds it necessary to employ an employee in excess of 40 hours a week or eight hours a day, compensation for the overtime at the rate of one and one-half times the regular rate of pay shall be paid.



APC0203

Mark C. Nelson

-2-

June 26, 1997

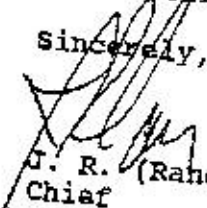
The more common exemptions for Administrative, Executive or Professional employees are found in AS 23.10.055. This exemption applies to both minimum wage and overtime. Since those types of employees are not entitled to a minimum wage, their salaries are considered compensation for any and all hours they may work.

The explanation as to why employees in a supervisory capacity must be paid for all hours worked is not found in the regulations. It must be pieced together from the statutes and court rulings. The U.S. Supreme Court has held that employees who are not exempt from minimum wage must be paid for all hours they are "suffered or permitted" to work.

Exempt administrative employees, for example, are paid for all hours worked, but are not guaranteed any minimum hourly rate. Employees working in a supervisory capacity must also be paid for all hours worked. The hiring agreement and pay practices for supervisors establish a contractual hourly straight-time rate of pay for the Materials Supervisors. They are statutorily and/or contractually entitled to be paid that rate for all hours worked, without any overtime premium, pursuant to the exemption stated in AS 23.10.060.

I hope this information is helpful. If you have any further questions, do not hesitate to contact our office.

Sincerely,


J. R. (Randy) Carr
Chief
Labor Standards

JRC:cah

APC0204